



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/171114

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 04, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner meets approval criteria for Medicaid payment for Harvoni.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], R.Ph.

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. A prior authorization request was filed on behalf of Petitioner on December 3, 2015 seeking Medicaid payment for a 12 week supply of Harvoni. The cost is noted to be \$99,802.00.
3. Petitioner is 54 years old (DOB [REDACTED]). He is diagnosed with hepatitis C with evidence of decompensated cirrhosis of the liver. He is listed as having a Child-Turcotte-Pugh (CTP – a test of the level of cirrhosis) score of 12, which would put him in the Class C level of the illness. He

is on the liver transplant waiting list. He has a MELD score of 18 though it may have increased to 20 by the time of the hearing.

4. This prior authorization request has been denied. As the Department concluded that Petitioner's condition does not meet the criteria necessary for Medicaid payment for Harvoni.

DISCUSSION

Drugs that entail substantial cost or utilization problems are subject to prior authorization. Wis. Admin. Code, §DHS 107.10(2)(d). The Department has utilized a preferred drug list since 2004 to inform pharmacies what drugs require authorization. Harvoni is a non-preferred drug that requires authorization because of its high cost. MA providers were informed of the policy regarding drugs such as Harvoni in Forward Health Update no. 2014-74, dated November, 2014 and effective December 1, 2014. The policy was updated effective July 1, 2015, and providers were notified of the change by ForwardHealth Update no. 2015-27, a copy of which is attached to the DHCAA case summary dated January 21, 2016 (Exhibit # 3).

Harvoni is denied if the person has cirrhosis Class B or C. See Update 2015-27, pages 13-14. Petitioner's cirrhosis is Class C. At this point I must conclude that the DHCAA correctly denied the request for Harvoni because its policy directs the denial. If Petitioner's doctor and other professionals in the field disagree with the policy, they will have to convince the Department that the policy is flawed. The evidence here is not sufficient for this office to take that step.

CONCLUSIONS OF LAW

The DHCAA correctly denied the request for Harvoni because Petitioner's condition does not meet the criteria for approval.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of March, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 30, 2016.

Division of Health Care Access and Accountability